

turing apprehension of being deprived of the means of subsistence.

When, as sometimes happens, it becomes the duty of a judge to resist legislative encroachment, one whose salary is liable to be diminished at the will of the general assembly, must possess a high and romantic degree of firmness and integrity to maintain his ground unmoved. And even in ordinary cases, the danger is too obvious to be overlooked, that the decisions of judges thus circumstanced, will be framed with a view to popularity, rather than to the pure and elevated and inflexible principles of law and justice. When this state of things shall be once produced, all that is valuable in our institutions is gone; and we may bid farewell to our liberties. It was a deep sense of these important truths, that induced the framers of our constitution to throw their ample shield around the judiciary. It was from a thorough conviction that the independence and uprightness of judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people, that the 30th article of the Declaration of Rights was adopted. It was intended, by relieving the minds of the chancellor and judges from all anxiety about the means of subsistence, to enable them to devote themselves exclusively to the making those attainments which are so essential to the beneficial discharge of their important and difficult duties. By securing their commissions during good behaviour, and making their salaries of equal duration with their commissions, it was designed to guard against the mischiefs that would arise from the subserviency of the judges to the legislature, and from their being compelled to seek the favour of the powerful and influential. Respecting the construction of that portion of the article under consideration, which relates to the duration of the commissions of the chancellor and judges, no doubt has ever been intimated; and your committee apprehend, that as little real difficulty exists with regard to that part of it which directs that "salaries, liberal, but not profuse, should be secured to them during the continuance of their commissions." That it was intended to withdraw the subject of judicial salaries from the general, unlimited, discretionary control of the legislature appears undeniable. The provision would otherwise have been wholly superfluous. Without it the general assembly had power to provide salaries for judges as well as other officers; and might, as in other cases, have enlarged, diminished or withdrawn them at pleasure. But the framers of our constitution deeming it unsafe that judicial salaries should be held by so uncertain a tenure, placed them on a more stable footing. Had it been designed to leave the salaries at the mercy of the legislature, it would have been altogether nugatory to guard the commissions with such sedulous circumspection. It is the salary only that gives value to the commission; and if the substance be left unprotected, it would be a fruitless waste of care to shield so anxiously the shadow. The pledge of independence which is held out to the chancellor and judges would be fallacious and illusory.